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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,000	02/20/2004	Richard T. Strasser	STRASS 3.0-002	5862
530 7590 01/30/2007 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER HOOK, JAMES F	
			ART UNIT	PAPER NUMBER
			3754	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/30/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/784,000	STRASSER ET AL.	
	Examiner	Art Unit	
	James F. Hook	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 2-4,16-18,25-31,34,35,39 and 40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,5-15,19-24,32,33 and 36-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/20/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of the species of a fiber optic cable for a clear sleeve attached using glue in the reply filed on November 7, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 2-4, 16-18, 25-31, 34, 35, 39 and 40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 7, 2006. It is noted that applicant stated claim 31 would read upon the elected species, however such is dependent from claim 30 which is recited as not reading upon the elected species therefore, claim 31 cannot read on the elected invention when the claim from which it depends does not, therefore claim 31 has been treated as a withdrawn claim as well.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 10-13, 19-24, 32, 33, and 36-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Dougherty. The patent to Dougherty discloses

Art Unit: 3754

the recited illuminated hose, where the use of such as a fire hose is considered merely intended use where the hose of Dougherty is capable of use as a fire hose, comprising a hose 36 having first and second ends with interior and exterior walls, a sleeve 38 secured over the exterior surface of the hose, at least one light emitting element 47,48 is provided as a bundle of optical fibers where more than one fiber can be provided, the bundle can be wrapped around the length of the sleeve, the sleeve is made of flexible material, a clear material 43 is attached to the sleeve to hold the light emitting element, where such is a polymer material, the light emitting elements can vary in color and can be visible outside the hose, where the light emitting element inherently would be longer than the distance of the hose for it to extend the same distance yet be wrapped around the hose exterior, and such is connected to a light source.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 5-8, 10-13, 19-24, 32, 33, and 36-38 are rejected under 35 U.S.C.

103(a) as being unpatentable over Rickards in view of Dougherty. The reference to Rickards discloses the recited fire hose comprising a hose 10 for use with a fire engine thereby making such a fire hose where such has first and second ends with interior and exterior walls, a sleeve 22 formed of a flexible fabric material is provided over the hose

Art Unit: 3754

to protect such, the sleeve can be formed of a piece of material that is sewn along its edges which inherently would include at least some overlap of the seam to allow for sewing, the length of the sleeve can be longer or shorter than the hose it is protecting, hook and loop fasteners can hold the sleeve to the hose, a pocket can be provided for holding other structures to the sleeve, and reflective material 66 can be provided to allow such to be easily seen, where such can be of a single or multiple colors. The reference to Rickards discloses all of the recited structure with the exception of providing the sleeve with a fiber optic element to allow such to be seen in dark environments, providing such with a clear sleeve of polymeric material to hold the fiber optic element to the fabric sleeve, where multiple colors of light can be used in the fiber optic cable. The patent to Dougherty discloses all of the structure set forth above, it would have been obvious to one skilled in the art to modify the reflection element in Rickards to be a fiber optic element as such would allow the sleeve to be seen in dark environments where there isn't sufficient light to see reflect off of reflective portions, and to provide a clear sleeve of polymer material to hold the fiber optic element to the fabric sleeve and to provide the fiber optic elements with different color light as suggested by Dougherty where such would provide the sleeve with an element that can be seen in dark environments without requiring light to reflect off of it for the sleeve to be seen where such is an alternative manner to allow for a hose to be seen to the use of reflective type bands, and where different color lights is equivalent to different color reflective elements, where such would further protect the hose in low light applications thereby preventing damage and saving money in premature replacement costs.

Art Unit: 3754

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rickards in view of Dougherty as applied to claims 1, 5-8, 10-13, 19-24, 32, 33, and 36-38 above, and further in view of Romero. The patent to Rickards as modified discloses all of the recited structure with the exception of closing the longitudinal seam of the sleeve with hook and loop fasteners. The patent to Romero discloses that it is old and well known in the art of protective sleeves to provide such with longitudinal seams that are provided with hook and loop fasteners to hold the seam closed but allow such to be opened for easier application of the sleeve to the item it is protecting. It would have been obvious to one skilled in the art to modify the sleeve in Rickards as modified by using a hook and loop fastener for the longitudinal seam of the sleeve to allow such to be applied more easily to the outside of the pipe being protected as suggested by Romero where such would allow for easier application of the sleeve to the hose thereby saving time and money for the user to apply the sleeve to the hose to be protected.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rickards in view of Dougherty as applied to claims 1, 5-8, 10-13, 19-24, 32, 33, and 36-38 above, and further in view of Dunphy. The patent to Rickards as modified discloses all of the recited structure with the exception of using epoxy to hold elements of the sleeve together. The patent to Dunphy discloses that it is old and well known in the art to provide epoxy to hold elements of a tubing together, including fiber optic cables to reinforced layers. It is considered that epoxy is inherently substantially transparent as such is a known property of epoxy. It would have been obvious to one skilled in the art to modify the sleeve in Rickards as modified by providing an epoxy to

Art Unit: 3754

hold elements together to insure the fiber optic cable does not shift with respect to the reinforcing layers as suggested by Dunphy where such would insure the elements stayed connected together thereby preventing premature failure and saving money in replacement or repair costs.

Conclusion

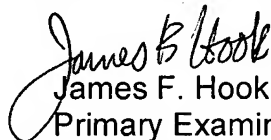
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Griffiths, Kingstone, Charboneau, Asta, Goodrich, Pope, Fatato, Taylor, and Huber disclosing state of the art sleeves some with illumination.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3754

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


James F. Hook
Primary Examiner
Art Unit 3754

JFH